

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**IN RE PAYMENT CARD
INTERCHANGE FEE AND
MERCHANT DISCOUNT
ANTITRUST LITIGATION**

*Barry's Cut Rate Stores Inc., et al v. Visa, Inc.,
et al.*

This Document Relates to:

All Actions.

No. 05-md-01720 (MKB)(JO)

**STIPULATION OF DISMISSAL
WITHOUT PREJUDICE AS TO
BARRY'S CUT RATE STORES, INC.
AND TOWN KITCHEN, LLC
PURSUANT TO F.R.C.P. 41(a)**

WHEREAS, plaintiffs have filed putative class actions that have been consolidated and coordinated for pretrial proceedings in *In re Payment Card Interchange Fee and Merchant Discount Antitrust Litigation*, No. 1:05-md-01720 (E.D.N.Y.) (MKB) (JO) ("MDL 1720");

WHEREAS, on or about April 3, 2017, an Equitable Relief Class Action Complaint was filed (the "(b)(2) Complaint"), in which Barry's Cut Rate Stores, Inc. and Town Kitchen, LLC d/b/a Town Kitchen & Bar were named as plaintiffs; and

WHEREAS, plaintiffs Barry's Cut Rate Stores, Inc. and Town Kitchen, LLC hereby stipulate and agree with the defendants named in the (b)(2) Complaint, by and through their undersigned counsel, pursuant to Federal Rule of Civil Procedure 41(a), that Barry's Cut Rate Stores, Inc.'s and Town Kitchen, LLC's claims and actions against all of the defendants in the (b)(2) Complaint, including Visa Inc., MasterCard Incorporated, MasterCard International Incorporated, Bank of America, N.A., BA Merchant Services LLC (f/k/a defendant National Processing, Inc.), Bank of America Corporation, Barclays Bank plc, Barclays Bank Delaware,

Barclays Financial Corp., Capital One Bank, (USA), N.A., Capital One Financial Corporation, Chase Bank USA, N.A., Chase Manhattan Bank USA, N.A., Chase Paymentech Solutions, LLC, JPMorgan Chase Bank, N.A., JPMorgan Chase & Co., Citibank (South Dakota), N.A., Citibank N.A., Citigroup, Inc., Citicorp, and Wells Fargo & Company, shall be dismissed without prejudice, with each side to bear its own attorneys' fees and costs.

Accordingly, IT IS HEREBY STIPULATED AND AGREED that:

1. The claims and actions of Barry's Cut Rate Stores, Inc. and Town Kitchen, LLC be, and hereby are, dismissed without prejudice and with each side to bear its own attorneys' fees and costs.

2. In the event that Barry's Cut Rate Stores, Inc. or Town Kitchen, LLC, or any of their respective related or affiliated entities, files any action that relates to the subject matter of claims asserted in MDL 1720, such action will be filed in federal court. Further, each plaintiff in such filed action will consent to, and not oppose, the inclusion of that action in MDL 1720 (if the action is filed in this Court) or the transfer of that action to MDL 1720 for coordinated or consolidated pre-trial proceedings (if the action is filed in any other federal court).

Dated: March 19, 2018

Respectfully submitted,

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SO ORDERED:

Dated:

Brooklyn, New York

United States District Judge